

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

STEVEN MORGAN,	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION NO. 24-CV-1190
	:	
OFFICER ALEJANDRO ORTIZ, et al.	:	
Defendants.	:	

ORDER

AND NOW, this 13th day of August, 2024, upon consideration of Plaintiff Steven Morgan's Second Amended Complaint (ECF No. 9), it is **ORDERED** that:

1. The Clerk of Court is **DIRECTED** to amend the docket to reflect that ECF No. 9 is a Second Amended Complaint.

2. For the reasons stated in the Court's Memorandum, the following claims are **DISMISSED WITH PREJUDICE** for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii): (1) all official capacity claims and (2) all individual capacity claims asserted against Defendant Jared Davis. The only claim that will proceed to service is Morgan's excessive force claim against Defendant Alejandro Ortiz in his individual capacity.

3. The Clerk of Court is **DIRECTED** to **TERMINATE** Jared Davis as a Defendant.

4. The case shall proceed at this time to service by the U.S. Marshal Service, in accordance with 28 U.S.C. § 1915(d) and Federal Rule of Civil Procedure 4(c)(3), against the following Defendant:

a. Officer Alejandro Ortiz

5. In anticipation of service by the U.S. Marshal Service, the Clerk of Court is **DIRECTED** to send a copy of this Order to Morgan together with one copy of the U.S. Marshal Service of Process Receipt and Return Form USM-285 ("USM-285 Form") for each Defendant

listed in paragraph four (4) of this Order.¹ The Clerk of Court is further **DIRECTED** to note the mailing on the docket.

6. To proceed with service, Morgan must complete a USM-285 Form for each Defendant listed in paragraph four (4) and return the completed form to the Clerk's Office within **twenty-one (21) days** of the date of this Order. Service cannot be made by the U.S. Marshal Service until Morgan completes and returns this form.

7. In completing the USM-285 Form, Morgan is instructed as follows:

- a. Morgan should complete a separate USM-285 Form for each Defendant listed in paragraph four (4) of this Order. Only one Defendant's name should appear on each USM-285 Form.
- b. Morgan shall not complete a USM-285 Form for any individual or entity that is not listed as a Defendant in paragraph four (4) of this Order, including but not limited to any Defendant who already has been dismissed from this case.
- c. Morgan should include as much identifying information as possible for each Defendant, including the Defendant's first name, last name, and, where relevant, the Defendant's badge number.
- d. Morgan must provide each Defendant's complete address at a location where that Defendant can be served. The U.S. Marshals Service cannot serve a Defendant at a P.O. Box address. It is Morgan's responsibility, and not the duty of the Court, the Clerk's Office, or the Marshals Service, to ascertain the addresses of the Defendants. *See, e.g., Meade v. Reynolds*, 810 F. App'x 86, 88 (3d Cir. 2020) (*per curiam*) ("[T]he plaintiff must provide the district court

¹ This form is available online at https://www.usmarshals.gov/sites/default/files/media/document/usm-285_process-receipt.pdf.

with sufficient information to enable the Marshals Service to effectuate service of process.” (citing *Lee v. Armontrout*, 991 F.2d 487, 489 (8th Cir. 1993)); *Harris v. McMullen*, 609 F. App’x 704, 707 (3d Cir. 2015) (*per curiam*) (“Harris has not pointed to any authority instructing that a District Court or the USMS must engage in extraordinary measures to assist an [*in forma pauperis*] litigant in locating a defendant’s address for the purpose of service of process, and we are not aware of any.”).

- e. Failure to include a proper address may result in the Defendant not being served and/or the dismissal of Morgan’s claims against any such Defendant.

8. Morgan is cautioned that failure to return the completed USM-285 Form in accordance with the above instructions may result in dismissal of this case for failure to prosecute without further notice from the Court.

9. The Clerk of Court is **DIRECTED** to docket any USM-285 Forms that Morgan returns in this case.

10. The Clerk of Court is **DIRECTED** not to issue summonses at this time. The Court will direct issuance of summonses upon receipt of properly completed USM-285 Forms.

BY THE COURT:

/s/ Juan R. Sánchez

JUAN R. SÁNCHEZ, J.